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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**  
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10 KEVIN T. LEVINE, an individual and on  
11 behalf of the general public,  
12  
13 vs. Plaintiff,  
14  
15 BIC USA, INC., a Delaware corporation,  
16 and DOES 1 through 100,  
17 Defendants.

CASE NO. 07cv1096-LAB (RBB)

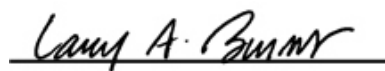
**ORDER DENYING AS MOOT  
DEFENDANT'S MOTION TO  
DISMISS AND TO STRIKE FIRST  
AMENDED COMPLAINT**

[Dkt Nos. 16, 17]

18 Pursuant to FED. R. CIV. P. 41(a), plaintiff Kevin T. Levine has filed a Notice of  
19 Voluntary Dismissal of this action, granting plaintiffs unilateral entitlement to dismiss their  
20 filed actions prior to defendant's service of an Answer or of a motion for summary judgment.  
21 DKT No. 34. No Answer has been filed in this case, and defendant has not moved for  
22 summary judgment. **IT IS HEREBY ORDERED** the Clerk of Court shall terminate this case  
23 in its entirety and, accordingly, defendant's pending Motion To Dismiss And To Strike First  
24 Amended Complaint is **DENIED AS MOOT**.

25 **IT IS SO ORDERED.**

26 DATED: November 5, 2007

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28 **HONORABLE LARRY ALAN BURNS**  
United States District Judge